IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

WP(C).No. 2899 of 2007(T)

PETITIONER:

KERALA STATE ROAD TRANSPORT
CORPORATION, REPRESENTED BY ITS MANAGING
DIRECTOR, TRANSPORT BHAVAN, EAST FORT,
THIRUVANANTHAPURAM.

BY ADV. SHRI.JOHNSON P.JOHN, SC, KSRTC

RESPONDENTS:
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1. THE REGIONAL TRANSPORT AUTHORITY,
ALAPPUZHA, REPRESNTED BY ITS
SECRETARY.

2. SHAJIMON, ARACKAL CHIRAYIL HOUSE,
C.M.C. 18, CHERTHALA.

BY GOVERNMENT PLEADER SRI. M.A.FAYAZ-R1

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

WP(C).No.2899 of 2007-T

Dated this the 25th day of January, 2006.

JUDGMENT

The second respondent applied for a regular permit on the route Cherthala-Edakochi. The said application was rejected by the R.T.A. Alappuzha by Ext.P1 decision dated 30-6-2006 on the ground that the route overlaps 3.5 kms. on the notified scheme Alappuzha-Ernakulam. The applicant/second respondent appealed. The appeal was allowed by Ext.P3 holding that no intermediate points are touched in the same line of travel. As far as Alappuzha-Ernakulam scheme is concerned overlapping of two intermediate points in the same line of travel alone is prohibited. So, the S.T.A.T. reversed Ext.P1 and ordered grant of permit. The K.S.R.T.C. Challenges Ext.P3 on the ground of overlapping. The learned counsel for the K.S.R.T.C. points out that the route in question where overlapping takes place is covered by a Supplementation Scheme covering Thiruvananthapuram-Palakkad route. But the said scheme has been notified on 26-8-1976. Subsequently on 18-2-1986 a modified total exclusion scheme has been notified for the route Alappuzha-Ernakulam which permits overlapping up to two intermediate points in the direct line of travel.

So, the earlier scheme even if it is a supplementation scheme prohibiting overlapping totally, in view of the subsequent scheme notified in 1986, it should be taken that earlier scheme stands modified. The draft notification relied on by the R.T.A. on 9-6-2006 is no longer in force. Therefore, reliance is placed on by the R.T.A. to reject the permit on the said draft notification is unsustainable.

In the result, the writ petition fails, and it is dismissed.

(K.BALAKRISHNAN NAIR)
JUDGE

MS